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BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION  
DOCKET SECTION

96 MAY 28 AM 9: 30

Joint Application of )  
 )  
DELTA AIR LINES, INC., )  
SWISSAIR, SWISS AIR TRANSPORT )  
COMPANY, LTD., )  
SABENA S.A., SABENA BELGIAN WORLD )  
AIRLINES, and )  
AUSTRIAN AIRLINES, ÖSTERREICHISCHE )  
LUFTVERKEHRS AG )  
 )  
For approval of and antitrust immunity for Alliance )  
Agreements pursuant to 49 U.S.C. §§ 41308 and )  
41309. )

Docket OST-95-618 - 40

COMMENTS OF THE JOINT APPLICANTS  
IN RESPONSE TO ORDER TO SHOW CAUSE

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May 28, 1996

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

<b>Joint Application of</b>	)	
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<b>DELTA AIR LINES, INC.,</b>	)	
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<b>SABENA S.A., SABENA BELGIAN WORLD</b>	)	<b>Docket OST-95-618</b>
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<b>For approval of and antitrust immunity for Alliance</b>	)	
<b>Agreements pursuant to 49 U.S.C. §§ 41308 and</b>	)	
<b>41309.</b>	)	

**COMMENTS OF THE JOINT APPLICANTS  
IN RESPONSE TO ORDER TO SHOW CAUSE**

Delta Air Lines, Inc. ("Delta"), Swissair, Swiss Air Transport Co., Ltd. ("Swissair"), Sabena S.A., Sabena Belgian World Airlines ("Sabena") and Austrian Airlines, Österreichische Luftverkehrs AG ("Austrian"), and their respective subsidiaries (collectively, "the Joint Applicants") hereby submit comments on Order 96-5- 12, the Department's Order to Show Cause.

The Joint Applicants strongly support the Department's tentative findings and conclusions contained in the Order to Show Cause and respectfully request that the Department promptly issue a Final Order granting approval of and antitrust immunity for the Alliance Agreements.

The Department's Order to Show Cause correctly concluded that the proposed Alliance among Delta, Sabena, **Swissair** and Austrian will produce substantial public benefits and would be consistent with important international aviation policy objectives. Prompt approval will permit the Joint Applicants to provide enhanced online services to the traveling and shipping public and to compete more effectively against global alliances such as the recently approved United-Lufthansa alliance and the Northwest-IUM alliance.

The Joint Applicants request that the Department's decision be clarified in the Final Order in the following respects:

1. The Joint Applicants request that the Final Order provide that the antitrust immunity granted to the Joint Applicants include the respective corporate subsidiaries (i.e., any company of which any applicant owns more than 50 percent of such company's voting securities) of each of the Joint Applicants. This clarification is similar to the formula contained in the United-Lufthansa Final Order. See, Order 96-5-27 at 5, n.8 and Appendix A ("Grant of Immunity") to the Show Cause Order herein.

2. The Department's Final Order, like the United-Lufthansa Final Order, should expressly define the term Alliance Agreements to mean: (1) the three separate and parallel Cooperation Agreements between Delta and Austrian, Delta and Sabena, and Delta and Swissair; (2) the Coordination Agreement among Delta, Sabena, **Swissair** and Austrian; (3) any implementing agreements that the joint applicants conclude pursuant to the foregoing agreements to develop and carry out the Alliance; and (4) any subsequent

agreement(s) and transaction(s) by the joint applicants pursuant to the foregoing agreements. See, Order 96-5-27, footnote 1.

3. The Joint Applicants request that the IATA condition contained in ordering paragraph 3 be modified “to require” the Joint Applicants to take the directed action with respect to IATA withdrawal rather than to impose the requirement as a “condition” to the grant of immunity. This clarification would conform to the IATA-withdrawal condition of the United-Lufthansa Final Order set forth in ordering paragraph 3 of Order 96-5-27. This modification is requested in order to avoid the potential for antitrust litigation challenging conduct that the Department has expressly immunized that is based on claims that one or more of the Joint Applicants had not satisfied the “condition”. The change requested herein by the Joint Applicants would clearly establish that the condition would be enforceable only by the Department in the same manner as any of the other requirements that the Department imposes on carriers subject to its jurisdiction.

With the foregoing clarifications, the Joint Applicants urge the Department promptly to finalize the Order to Show Cause and grant antitrust immunity to the Alliance Agreements among and between Delta, Sabena, Swissair, Austrian and their respective subsidiaries under 49 U.S.C. § 41309 and § 41308.

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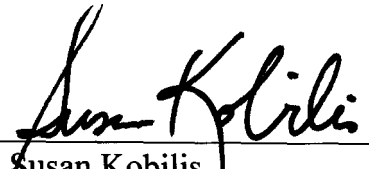
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Comments of the Joint Applicants in Response to Order to Show Cause was served this 28th day of May, 1996, on all persons listed on the attached service list.

  
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